

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DWIGHT BENSON,

Plaintiff,

v.

PIERCE COUNTY JAIL, *et al.*,

Defendants.

Case No. C08-5407 BHS/KLS

ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on Plaintiff's filing of a motion to proceed *in forma pauperis* and a proposed civil rights complaint under 42 U.S.C. § 1983. (Dkt. # 1). To file a complaint and initial legal proceedings, a plaintiff must pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. *See Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex. 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357

1 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa.
2 1974).

3 In his application to proceed *in forma pauperis*, Plaintiff indicates that he receives \$2,596.00 per
4 month in Veteran's Administration disability benefits. (Dkt. # 1, p. 2). Plaintiff is ordered to show cause
5 why the court should not consider these funds in determining Plaintiff's eligibility for *in forma pauperis*
6 status.

7 Plaintiff also indicates in his application that he is currently incarcerated in "Pioneer Center
8 North" (Dkt. # 1, p. 1), and on the same day, he provided the court with a change of address, reflecting his
9 new address as 336 27th Avenue, in Seattle, Washington. (Dkt. # 2). Plaintiff shall advise the court if he
10 is currently incarcerated.

11 Accordingly, **IT IS ORDERED:**

- 12 (1) Plaintiff shall provide the court with a response **no later than August 25, 2008;**
13 (2) The Clerk is directed to send a copy of this Order to Plaintiff.

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15 DATED this 11th day of July, 2008.

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19 Karen L. Strombom
20 United States Magistrate Judge
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